

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

TRISTRATA TECHNOLOGY, INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-644(JJF)
	)	
REVISION SKIN CARE, INC.,	)	
MEDICAL SKIN THERAPY RESEARCH,	)	
INC., REVISION SKIN CARE, INC. and Z	)	
COSMETICA USA, Inc.	)	
	)	
Defendants.	)	

**PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT  
AND INCORPORATED MEMORANDUM OF LAW**

Plaintiff Tristrata Technology, Inc. ("TTI"), by and through its counsel, respectfully moves this Court for a default judgment against Defendant Revision Skin Care, Inc. ("RSCI"), pursuant to Federal Rule of Civil Procedure 55.

**MOTION FOR DEFAULT JUDGMENT**

1. On October 17, 2006, Plaintiff filed its Complaint against Defendant Revision Skin Care, Inc.
  
2. On February 13, 2007, TTI served RSCI pursuant to 10 Del. C. § 3104 – by serving, the Secretary of State pursuant to 10 Del. C. § 3104 and caused a copy of the Complaint, the summons for Revision, and a letter addressed to RSCI, to be forwarded to RSCI via registered mail return receipt requested. A copy of the letter and registered mail receipt are attached hereto as Exhibit A. Neither the return receipt card nor the package was returned. However, a confirmation of delivery, was obtained using the United States Postal Service website , [www.usps.gov](http://www.usps.gov) is attached hereto as Exhibit B.

3. RSCI was required under Fed. R. Civ. P. 12(a)(1)(A) to file an answer to the Complaint within twenty (20) days of service or by no later than March 5, 2007.

4. On March 29, 2007, parties submitted to the court a stipulation and proposed order to extend time for RSCI's time to answer the complaint until April 27, 2007 (D.I. 10). A copy of the stipulation is attached hereto as Exhibit C. The court granted the proposed order on March 30, 2007.

5. To date, RSCI has not answered or otherwise responded to the Complaint nor has an appearance been entered on RSCI's behalf.

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Enter a default judgment against RSCI pursuant to Fed. R. Civ. P. 55 on all counts of the Complaint;
- B. Grant Plaintiff a period of time for discovery to determine the amount of damages;
- C. Grant Plaintiff attorney's fees and costs;
- D. Schedule a hearing to determine the amount of damages, including attorney's fees and costs; and
- E. Award to Plaintiffs such other and additional relief as this Court deems just and proper.

**INCORPORATED MEMORANDUM OF LAW**

As noted in the Exhibits attached hereto, RSCI was served with the summons and Complaint on February 26, 2007. To date, RSCI has not answered the Complaint nor entered an appearance in this action. Because RSCI's answer was due on or before April 27, 2007, it is clear that RSCI is in default and judgment should be entered against it.

Plaintiff thus respectfully requests that this Court enter a default judgment against RSCI in the manner set forth above.

Dated: May 8, 2008

Respectfully submitted,

/s/ Arthur G. Connolly, III

Arthur G. Connolly, III (#2667)  
CONNOLLY BOVE LODGE & HUTZ LLP  
The Nemours Building  
1007 N. Orange Street  
P.O. Box 2207  
Wilmington, DE 19899  
(302) 658-9141

Of Counsel:  
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131 South Dearborn Street  
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Chicago, IL 60603-5559

Kevin M. McGovern  
Brian T. Foley  
McGOVERN & ASSOCIATES  
545 Madison Avenue, 15th Floor  
New York, New York 10022  
(212) 688-9840

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 8, 2008, the foregoing document was served via First-Class U.S. Mail and CM/ECF on the following counsel of record:

Louise Bianco, President Louise Bianco Skin Care, Inc. 13655 Chandler Boulevard Sherman Oaks, CA 91401	
Brenda Purdy, President Medical Skin Therapy Research Inc. P.O. Box 231268 Encinitas, CA 92023	
John Muller, President Revision Skincare Inc. 9019 Premier Row Dallas, TX 75247	TEPLEN & ASSOCIATES, PLLC Philip H. Teplen, Esq. Empire State Building 350 Fifth Avenue, 57 <sup>th</sup> Floor New York, NY 10118
Philip Zellner Z Cosmetics USA, LLC 1650 New Highway Farmingdale, NY 11735	

/s/Arthur G. Connolly, III  
Arthur G. Connolly, III (#2667)

#608891\_1

# **EXHIBIT A**



**CONNOLLY BOVE LODGE & HUTZ LLP**

ATTORNEYS AT LAW

WILMINGTON, DE

Arthur G. Connolly, III  
Partner

DIRECT DIAL: (302) 888 6318  
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EMAIL: AConnollyIII@cblh.com  
REPLY TO: Wilmington Office

The Nemours Building  
1007 North Orange St.  
P.O. Box 2207  
Wilmington, DE 19899  
TEL: (302) 658 9141  
FAX: (302) 658 5614  
WEB: www.cblh.com

February 21, 2007

**REGISTERED MAIL**  
**RETURN RECEIPT REQUESTED**

John Muller, President  
Revision Skincare Inc.  
9019 Premier Row  
Dallas, TX 75247

Re: *Tristrata Technology, Inc. v. Louise Bianco Skin Care, Inc., et al.*, C.A. No. 06-644

Dear Sir:

Please find enclosed copies of the Summons and Return of Service and the Complaint and Jury Demand for the above-referenced case. The Summons and Complaint were served upon the Delaware Secretary of State on February 13, 2007. Pursuant to 10 Del. C. § 3104, such service is as effective for all intents and purposes as if it had been made upon you personally within the State of Delaware.

Sincerely,

Arthur G. Connolly, III

Enclosures

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Registered No.		Date Stamp
RB972 232 278 US		
To Be Completed By Post Office	Reg. Fee	7.90
	Handling Charge	Return Receipt 1.85
	Postage	Restricted Delivery
	Received by	Ken
	Customer Must Declare Full Value \$	<input type="checkbox"/> With Postal Insurance <input checked="" type="checkbox"/> Without Postal Insurance
OFFICIAL USE		Domestic insurance up to \$25,000 is included in the fee. International indemnity is limited. (See Reverse).
To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	Age 3 (SDT 11/14) Connolly Bove Lodge & Hutz P.O. Box 2207 Wilm DE 19801
	TO	John Muller, Pres Revision Skincare, Inc 9019 Premier Row Dallas, TX 75247

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer  
May 2004 (7530-02-000-9051) (See Information on Reverse)  
For domestic delivery information, visit our website at [www.usps.com](http://www.usps.com)®

# **EXHIBIT B**





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## Track & Confirm

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United States Postal Service



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# **EXHIBIT C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

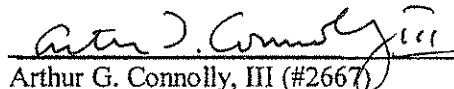
TRISTRATA TECHNOLOGY, INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 06-00644-JJF
	)	
LOUISE BIANCO SKIN CARE, INC.	)	
MEDICAL SKIN THERAPY RESEARCH, INC.	)	
REVISION SKINCARE, INC.	)	
Z COSMETICA USA, LLC.	)	
	)	
Defendants	)	

STIPULATION AND ORDER

IT IS HEREBY STIPULATED by the parties, subject to the approval of the Court, that the time in which defendant Revision Skincare, Inc. may answer, move or otherwise respond to Plaintiff's Complaint is hereby extended through and including April 27, 2007.

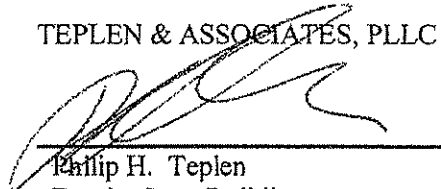
CONNOLLY BOVE LODGE & HUTZ LLP

TEPLEN & ASSOCIATES, PLLC



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Attorneys for Plaintiff  
Tristrata Technology, Inc.



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Empire State Building  
350 Fifth Avenue, 57<sup>th</sup> Floor  
New York, NY 10118  
(212) 401-4040

Attorneys for Defendant  
Revision Skincare, Inc.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
United States District Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 29, 2007, the foregoing document was served via First-Class U.S. Mail and CM/ECF on the following counsel of record:

Louise Bianco, President Louise Bianco Skin Care, Inc. 13655 Chandler Boulevard Sherman Oaks, CA 91401	
Brenda Purdy, President Medical Skin Therapy Research Inc. 1260 Avenida Chelsea Vista, CA 92081	
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/s/Arthur G. Connolly, III  
Arthur G. Connolly, III (#2667)